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09/523,437	03/10/2000	Kazuhiro Fukuda	SONYJP 3.0-108	5273
530 7590 08/19/2009 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER				
PAULA, CESAR B				
ART UNIT		PAPER NUMBER		
2178				
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08/19/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/523,437

Applicant(s)

FUKUDA, KAZUHIRO

Examiner

CESAR B. PAULA

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/IC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

1. This action is responsive to the RCE amendment filed on 6/1/2009.

This action is made Non-Final.

2. In the amendment, claims 1-2, and 5-12 are pending in the case. Claims 1, and 7-12 are independent claims.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d), and based on application # 11 076598 filed in Japan on 3/19/1999, which papers have been placed of record in the file.

Drawings

4. The drawings filed on 3/10/2000 have been approved by the examiner.

Claim Rejections - 35 USC § 112

5. The rejections of claims 1-2, and 5-12 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, have been withdrawn as necessitated by the amendment.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, and 5-12 remain rejected under 35 U.S.C. 102(b) as being anticipated by Klingler et al, hereinafter Klingler (USPat.# 5,682,326, 10/28/1997).

Regarding independent claim 1, Klingler teaches collection of selected video reference clips in accordance with a program--*predetermined specification*. The reference clips include reference to source clips including in and out frame points to from a movie. A final movie file, including the selected clips, is created in the Quicktime format(*internal format*). The clip scenes contain objects layered/ independently presented, such as video, titling, audio, effects, etc. that make up the movie, which is to be displayed— *a shared-scene creation module operable allow the editor to define shared scenes define shared scenes that are superimposable to create a single, superimposed final scene, the shared scenes being virtual scenes formed in accordance with an internal format and used to form the final scenes, each of the shared scenes comprising one or more shared objects that are controllable for display to create final scenes the shared objects being separately controllable independent of the defined shared scenes in which the shared objects are displayed in accordance with the predetermined specification; a shared-*

scene processing module operable to enable the editor to virtually superimpose two or more shared scenes each of the shared scenes comprising one or more of the shared objects, for creating the superimposed final superimposed scenes with the shared objects from each selected shared scene; (col.7, lines 9-67, col.8, lines 19-67, col.9, lines 21-col.10, line 44, col.13, lines 4-34, fig.3-5, 7). In other words, the various objects, titling, effects, etc., are activated separately and independently from the particular clips that make up the video based upon user preferences.

Moreover, Klingler teaches the application of special effects filters, specified in the program, to selected clips by specifying parameters for the frames— *an application creation module operable to describe control information in accordance with the internal format based on the shared scenes set by the editor via said shared-scene creation and processing module* (col.8, lines 19-67).

Moreover, Klingler teaches the organization, and display of the clips into a project window. The clip scenes contain objects, such as video, audio, text, effects, etc. that make up the movie, which is to be displayed. The user can select scenes that contain objects to be presented to a user at the same time, as outlined by a timeline. The effects are based on objects, such as textual titles, and not on the scenes — *an output control module for converting the control information into shared object control information for forming the final superimposed scenes in which the shared objects selected by combining shared scenes are specified for display at the same time in the final superimposed scenes in accordance with said the predetermined specification; wherein the superimposed final scenes are described by the combination of one or more shared scenes and one or more of the shared objects based on the internal format, and the*

converted control information is described based on one or more of the shared objects without the shared scenes (col.7, lines 21-67, col.8, lines 18-58, fig.3-5).

Regarding claim 2, which depends on claim 1, Klingler teaches the organization of the clips into a meaningful sequence of clips and filters in which they are to appear in a movie in accordance to a program's instruction— *said shared-scene processing module further specifies an order of superposition of a plurality of said shared scenes; and said application creation module further describes said control information for controlling an order of superposition of said shared objects used for each of the final superimposed scenes as a state of utilization of shared objects in each of the final superimposed scenes in accordance with said order of superposition of said shared scenes (col.7, lines 9-67).*

Regarding claim 5, which depends on claim 9, Klingler teaches a program indicating the organization of the clips into a meaningful sequence of clips and filters in which they are to appear in a movie— *controlling utilization of the at least one shared object in each of the final superimposed scenes based upon the predetermined specification and the shared scenes (col.7, lines 9-67).*

Claim 5-6 are directed towards a method for implementing the steps of claims 1-2 respectively, and therefore are similarly rejected.

Claim 7 is directed towards an apparatus for implementing the method of claim 1, and therefore is similarly rejected.

Claim 8 is directed towards an apparatus for implementing the method of claim 1, except for *the creation of broadcast content* information, which is taught by Klingler's allowing people owning a file of the movie in Quicktime format for display—... (col.13, lines 16-34, col.9, lines 21-col.10, line 43)).

Claims 9-10 are directed towards a method similar to the steps of claims 1, and 8, and therefore are similarly rejected.

Claim 11 is directed towards a memory device for storing instruction, and for implementing the method of claim 1, and therefore is similarly rejected.

Regarding independent claim 12, Klingler teaches the definition, and creation video clips. The clips include in and out frame points from a movie The clip scenes contain objects independently presented, such as video, titling, audio, effects, etc. that make up the movie, which is to be displayed — *a shared-scene creation module operable to allow the editor to define intermediate scene templates that are superimposable to create a single, superimposed final scene accordance with an internal format that include one or more shared objects that are controllable in an always on or always off manner for display to create final scenes, the shared objects being separately controllable independent of the defined shared scenes in which the*

shared objects are displayed in accordance with a predetermined, industry-standard specification (col.6, lines 40-67, col.7, lines 9-67, col.8, lines 19-67, col.9, lines 21-col.10, line 43, col.13, lines 4-34, fig.3-5). In other words, the various objects, titling, effects, etc., are activated separately and independently from the particular clips that make up the video based upon user preferences.

Moreover, Klingler teaches the collection video clips. The collection includes reference clips having reference to source clips including in and out frame points to from a movie.— *a shared-scene processing module operable to enable the editor to virtually superimpose two more shared scenes of the intermediate scene templates to form a desired final superimposed scene that is a superposition of the shared objects contained within the editor-selected intermediate scene templates* (col.7, lines 9-67).

Moreover, Klingler teaches the application of special effects filters to selected clips by specifying parameters for the video frames. The clip scenes contain objects, such as video, audio, effects, etc. that make up the movie, which is to be displayed—*an application creation module operable to form shared-scene definition statements of shared objects files in accordance with the internal format an application, the shared object files comprising shared objects from the combined editor-selected intermediate scene templates* (col.8, lines 19-67, col.7, lines 9-67, fig.3-5).

Moreover, Klingler teaches the organization, and display of the reference clips (which have references to the source clips) into a project window. The clip scenes contain objects, such as video, audio, text, effects, etc. that make up the movie, which is to be displayed. The user can select scenes that contain objects to be presented to a user at the same time, as outlined by a

timeline. The effects are based on objects, such as textual titles, and not on the scenes —an output control module for providing description files that include descriptions of links for controlling the shared objects from the shared object files from each editor-selected intermediate scene template, the description files forming a script that complies with the industry-standard specification to display the shared objects at the same time in the final superimposed scenes; wherein the superimposed final scene is described by the combination of one or more scene templates and one or more of the shared objects based on the internal format, and the converted control information is described based on one or more of the shared objects without the shared scenes (col.7, lines 21-67, col.8, lines 18-30).

Response to Arguments

8. Applicant's arguments filed 6/1/2009 have been fully considered but they are not persuasive. Regarding claim 1, the Applicant states that :

'First, Applicant still disagrees with the Examiner's position and reading of Klingler. Klingler differs from the claimed invention in that it presents to the editor movie clips to be strung together *sequentially in time* with different possible effects (deemed by the Examiner to be "objects") to be applied across one or multiple sequential movie clips. Each clip does not have its own objects such that the editor can, for example, take clip A with an added effect i, and clip B with added effects 2 and 3, and superimpose both clips to form a superimposed new clip (clip A overlaid upon clip B) with all of added effects 1-3 now being displayed.' (page 11, parag. 2).

The Examiner disagrees, because the final video of Klingler contains teaches the organization, and display of the clips into a project window. The clip scenes contain independent layered

objects, such as video, titling, audio, effects, etc. that create the movie, which is to be displayed. The user individually selects the objects, such as the title, the type of visual effects (dissolve, pip, color, tint etc.) found in the clips to be presented in a final video to a user as indicated by the user (col.7, lines 42-67, col.8, lines 19-67, fig.3-5). The final movie is made up of the various independent objects. The combination of the various clips, effects, etc yields a final scene which is made up of the combined objects.

Claims 2, and 5-12 remain rejected at least based on the reasons found above in light of the newly added limitation.

Conclusion

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hanson et al. (Pat. # 5,956,736 A), Garcia et al. (Pat. # 5,982,365 A), Burkes et al. (Pat. # 6,023,715 A), D'Arlach et al. (Pat. # 6,026,433 A), and Yang et al. * et al. (Pat. # 6,301,586 B1).

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cesar B. Paula whose telephone number is (571) 272-4128. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m. (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong, can be reached on (571) 272-4124. However, in such a case, please allow at least one business day.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://portal.uspto.gov/external/portal/pair>. Should you have any questions about access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866 217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 or 571 272-1000 (USA or Canada).

Any response to this Action should be mailed to:
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

- **(571)-273-8300** (for **all** Formal communications intended for entry)

/CESAR B PAULA/ Primary Examiner, Art Unit 2178

8/18/2009